



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: July 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016788

[REDACTED]

Dear [REDACTED],

On July 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 2016 eligibility determination notice, September 19, 2016 disenrollment notice, December 16, 2016 eligibility determination notice, and December 16, 2016 enrollment confirmation notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: July 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016788

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of NY State of Health's September 19, 2016 eligibility determination, September 19, 2016 enrollment confirmation notice, December 16, 2016 eligibility determination notice and December 16, 2016 enrollment confirmation notice timely?

Did NY State of Health properly determine that your and your spouse's eligibility for the Essential Plan ended effective October 31, 2016?

Did NY State of Health properly determine that your and your spouse's eligibility for and reenrollment in the Essential Plan was effective January 1, 2017?

Procedural History

On June 4, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2016. The notice further directed you to provide documentation confirming your household income before September 1, 2016.

On June 18, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in an Essential Plan, effective August 1, 2016.

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On August 8, 2016, you updated your household's application for financial assistance with health insurance.

On August 9, 2016, NYSOH issued a notice of eligibility determination, based on the August 8, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2016. The notice further directed you to provide documentation confirming your household income before September 1, 2016.

On September 19, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you and your spouse were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

On September 19, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in the Essential Plan would end as of October 31, 2016, because you and your spouse were no longer eligible to remain in your plan.

On December 15, 2016, you updated your household's application for financial assistance.

On December 16, 2016, NYSOH issued a notice of eligibility determination, based on your December 15, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice further directed you to provide documentation confirming your household income before March 15, 2017.

Also on December 16, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on January 1, 2017, stating that you and your spouse were enrolled in an Essential Plan effective January 1, 2017.

On March 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's Essential Plan for the months of November 2016 and December 2016.

On July 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

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- 1) Your NYSOH account indicates that you receive all of your notices from NYSOH by electronic mail.
- 2) Your NYSOH account reflects that you provided the e-mail address [REDACTED] as the e-mail address you wanted electronic alerts sent to. You testified that you have not used this e-mail address in several years.
- 3) You testified that you were not aware of any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your income.
- 4) Your NYSOH account indicates that on September 18, 2016, your household's application was run and you and your spouse were found no longer eligible for the Essential Plan as of October 31, 2016.
- 5) You testified that you did not know that you needed to submit documentation of your income until after you and your spouse had been disenrolled from your Essential Plan.
- 6) You testified that you became aware that you and your spouse had been disenrolled from your Essential Plan when you began receiving bills for treatment your spouse had received in November 2016.
- 7) On February 24, 2017, you spoke to the NYSOH Account Review Unit and an incident was created [REDACTED] wherein you requested that your coverage be backdated to November 1, 2016.
- 8) You updated the income information in your NYSOH account on December 15, 2016.
- 9) You testified that you are seeking reinstatement of your and your spouse's Essential Plan for the months of November 2016 and December 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Valid Appeal Requests

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An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Verification of Eligibility for the Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

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If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR §155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see *also* 42 CFR § 600.320(c)). For updates received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR § 155.420(b)(1)(ii); see *also* 42 CFR § 600.320(c)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

Legal Analysis

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The first issue under review is whether your appeal of NYSOH's September 19, 2016 eligibility determination, September 19, 2016 enrollment confirmation notice, December 16, 2016 eligibility determination notice and December 16, 2016 enrollment confirmation notice timely

The record reflects that you first contacted NYSOH and filed a complaint regarding your and your spouse's disenrollment from and reenrollment start date in your and your spouse's Essential Plan on February 24, 2017. Thereafter, you filed a formal appeal on these issues on March 23, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your and your spouse's disenrollment from your Essential Plan, an appeal should have been filed by November 18, 2016.

For an appeal to have been valid on the issue of your and your spouse's reenrollment start date in your and your spouse's Essential Plan, an appeal should have been filed by February 14, 2017.

Although your appeal was untimely on its face, you testified that the e-mail address to which electronic alerts regarding notices from NYSOH is an address which you have not used in several years. Although the notices contained in your NYSOH account do provide information regarding filing deadlines for appeals, you were not aware of these notices and therefore were not aware of the deadline for filing an appeal, as the alerts would have been sent to an e-mail address you no longer utilize. Therefore, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly determined that your and your spouse's eligibility for the Essential Plan ended effective October 31, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determinations issued on June 4, 2016 and August 9, 2016, you were advised that you and your spouse were eligible for the Essential Plan for a

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limited time, and that you needed to confirm your household's income before September 1, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. Your NYSOH account reflects that you have elected to receive alerts regarding notices from NYSOH electronically. You went on to testify that you have not used the e-mail address you provided to NYSOH for several years. However, it is incumbent upon an NYSOH account holder to provide up-to date contact information to allow for proper service of notices.

Therefore, the record is devoid of any evidence that NYSOH did not properly notify you, at the e-mail address listed on your NYSOH account, of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your and your spouse's eligibility for the Essential Plan terminated as of October 31, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the September 19, 2016 eligibility determination notice and September 19, 2016 disenrollment notice are AFFIRMED.

The second issue is whether NYSOH properly determined that your and your spouse's eligibility for and reenrollment in the Essential Plan was effective January 1, 2017.

You testified, and your account confirms, that you updated your NYSOH application on December 15, 2016. That day you selected an Essential Plan for reenrollment for yourself and your spouse.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Since on December 15, 2016, you selected an Essential Plan for yourself and your spouse, your and your spouse's reenrollment would properly take effect on the first day of the month following December 2016; that is, on January 1, 2017.

Therefore, the December 16, 2016 eligibility determination notice, and the December 16, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective January 1, 2017, is correct and must be AFFIRMED.

Decision

The September 19, 2016 notice of eligibility determination is AFFIRMED.

The September 19, 2016 disenrollment notice is AFFIRMED.

The December 16, 2016 notice of eligibility determination is AFFIRMED.

The December 16, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: July 13, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you and your spouse ineligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your and your spouse's reenrollment in the Essential Plan was effective January 1, 2017.

If You Disagree with this Decision (Appeal Rights)

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This

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must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 19, 2016 notice of eligibility determination is **AFFIRMED**.

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The September 19, 2016 disenrollment notice is AFFIRMED.

NYSOH properly found you and your spouse ineligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

The December 16, 2016 notice of eligibility determination is AFFIRMED.

The December 16, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found that your and your spouse's reenrollment in the Essential Plan was effective January 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

שׂוֹדֵשׁ (Yiddish)

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דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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